

## **HON. JAMAL N. WHITEHEAD**

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

## VALVE CORPORATION,

Plaintiff,

V.

LEIGH ROTHSCHILD, ROTHSCHILD BROADCAST DISTRIBUTION SYSTEMS, LLC, DISPLAY TECHNOLOGIES, LLC, PATENT ASSET MANAGEMENT, LLC, MEYLER LEGAL, PLLC, AND SAMUEL MEYLER.

## Defendants.

Case No. 2:23-cv-1016

**FIRST AMENDED COMPLAINT FOR  
DECLARATORY JUDGMENT OF  
INVALIDITY AND  
UNENFORCEABILITY OF U.S. PATENT  
NO. 8,856,221; BREACH OF CONTRACT;  
BAD FAITH ASSERTION OF PATENT  
INFRINGEMENT; AND CONSPIRACY  
TO VIOLATE THE WASHINGTON  
STATE PATENT TROLL PREVENTION  
ACT**

Complaint Filed: 07/07/2023

JURY TRIAL DEMANDED

1. Plaintiff Valve Corporation (“Valve”), through its undersigned counsel, hereby alleges as follows against Defendants Leigh Rothschild; Rothschild Broadcast Distribution Systems, LLC; Display Technologies LLC; Patent Asset Management, LLC; Meyler Legal, PLLC; and Samuel Meyler (collectively, “Defendants”):

## J. NATURE AND HISTORY OF THE ACTION

**A. Defendants' tactics forced Valve to seek its requested relief to put an end to their bad-faith assertions of patent infringement.**

2. This is an action that seeks various forms of relief due to Defendants' bad faith assertions of patent infringement against Valve.

1       3. First, Valve seeks a declaratory judgment that U.S. Patent No. 8,856,221  
 2 (“the ’221 Patent”), which Defendants have asserted against Valve, is invalid.

3       4. Second, Valve seeks a declaratory judgment that the ’221 Patent is  
 4 unenforceable against it as Valve is a licensee to the ’221 Patent under the 2016  
 5 Global Settlement and License Agreement (Ex. 1) between Valve and Defendants  
 6 Leigh Rothschild and Display Technologies, LLC.

7       5. Third, Valve seeks a judgment that Defendants breached the 2016  
 8 Global Settlement and License Agreement by: threatening to sue Valve for  
 9 infringement of the licensed ’221 Patent; demanding additional monetary payments  
 10 from Valve to avoid that lawsuit; suing Valve for infringement of licensed U.S.  
 11 Patent No. 9,300,723; and by failing to withdraw their threat over U.S. Patent  
 12 No. 9,300,723.

13       6. Fourth, Valve seeks a judgment that Defendants violated Revised Code  
 14 of Washington (“RCW”) 19.350 (the Patent Troll Prevention Act) and  
 15 RCW 19.86.020 (the Washington State Consumer Protection Act) by making bad  
 16 faith assertions of patent infringement against Valve.

17       7. Fifth, Valve seeks a judgment that Defendants are liable for conspiracy  
 18 to commit violations of the Patent Troll Prevention Act.

19           **B. Defendants are patent trolls engaged in a pattern of unseemly  
 20 litigation tactics, often based on objectively baseless allegations.**

21       8. Upon information and belief, Defendant Rothschild Broadcast  
 22 Distribution Systems (“RBDS”), the owner of the ’221 Patent, does not make, use, or  
 23 sell any products or services of its own, but is solely in the business of patent  
 24 licensing through the threat of litigation, a pattern of behavior indicative of entities  
 25 commonly referred to as “patent trolls.”

26       9. Upon information and belief, RBDS’s sole business model and activity  
 27 involves making accusations of patent infringement to extract licensing payments  
 28 from practicing entities. RBDS has filed over 100 lawsuits in furtherance of that goal.

1       10. Upon information and belief, Defendant Leigh Rothschild  
 2 (“Rothschild”) owns or controls dozens of companies, including RBDS. The sole  
 3 purpose of the Rothschild companies is to accuse others of patent infringement. The  
 4 goal of these accusations is to extract a quick settlement from the accused infringers  
 5 rather than actually litigate the merits of the infringement claims. Ex. 2 (*Stupid Patent*  
 6 *of the Month: “Internet drink mixer” vs. everyone*, <https://arstechnica.com/tech-policy/2015/09/stupid-patent-of-the-month-internet-drink-mixer-vs-everyone/>).

8       11. Entities owned by Rothschild have filed over a thousand patent  
 9 infringement lawsuits. Ex. 3 (*NPE Showcase – Leigh Rothschild*,  
 10 <https://www.gadgetsgigabytesandgoodwill.com/2023/05/npe-showcase-leigh-rothschild/>). In some instances, the defendants chose to fight rather than pay  
 11 nuisance-value settlements. Courts have found such lawsuits brought by Rothschild  
 12 entities to be objectively baseless, resulting in fees and other penalties against the  
 13 Rothschild entities. Ex. 4 (*Federal Circuit Hits Stupid Patent Owner With Fee*  
 14 *Award*, <https://www.eff.org/deeplinks/2017/06/federal-circuit-hits-stupid-patent-owner-fee-award>).

17       **C. Rothschild-controlled entities have engaged in a pattern of accusing  
 18 Valve of infringement based on patents that they already licensed  
 to Valve.**

19       12. On June 8, 2015, Display Technologies, an entity controlled by  
 20 Rothschild, filed suit against Valve, accusing it of infringing U.S. Patent  
 21 No. 8,671,195.

22       13. On November 14, 2016, Display Technologies and Valve entered into  
 23 the 2016 Global Settlement and License Agreement. In that agreement, Display  
 24 Technologies granted Valve a “perpetual, irrevocable, royalty-free, fully paid-up,  
 25 worldwide license” to all patents listed in Exhibit C of the settlement agreement, as  
 26 well as “all continuations, divisionals, continuations-in-part, extensions, reissues,  
 27 reexaminations, and any other patents or patent applications claiming priority to or  
 28

1 through the patents identified in Exhibit C.” Ex. 1 at 2. Valve paid to obtain these  
 2 rights. Ex. 1 at 5-6.

3       14. Rothschild signed the 2016 Global Settlement and License Agreement  
 4 on behalf of himself, Display Technologies, and all entities listed as “Assignee” in  
 5 Exhibit C to the agreement. Ex. 1 at 14 & 18-19.

6       15. In March 2022, Daniel Falcucci, the Director of Business Development  
 7 at Defendant Patent Asset Management (“PAM”), began sending numerous emails  
 8 and messages to members of Valve’s legal team, including LinkedIn messages,  
 9 requesting that Valve execute a new license with Rothschild and his various entities  
 10 for more money. Mr. Falcucci stated that PAM was headed by Rothschild, and that it  
 11 was Mr. Falcucci’s understanding that PAM had signed the 2016 Global Settlement  
 12 and License Agreement with Valve. Ex. 5 (LinkedIn message from Daniel Falcucci to  
 13 Valve). Nonetheless, Mr. Falcucci repeatedly urged Valve to negotiate a new  
 14 licensing agreement with Rothschild. *Id.* As one example, Mr. Falcucci sent a  
 15 LinkedIn message to a member of Valve’s legal team offering an “opportunity” to  
 16 enter into a new agreement with PAM, and further offered to present what PAM  
 17 called its “inventory catalog” upon request. *Id.* The referenced “inventory catalog” is  
 18 nothing but a list of patents that Rothschild entities routinely assert against companies  
 19 that are developing and manufacturing actual useful products. PAM’s inventory  
 20 catalog it presented to Valve included multiple patents that Valve already licensed in  
 21 the 2016 Global Settlement and License Agreement.

22       16. Listed in the inventory catalog as part of PAM’s “featured inventory”  
 23 that was “not subject to an agreement” between Valve and Rothschild and that  
 24 Rothschild now wanted Valve to take a license to were United States Patent Nos.  
 25 8,617,160 and 9,402,664. Both patents claim devices and methods for implanting  
 26 nails into human bone during a medical procedure to facilitate fracture healing.

1        17. Valve is not, and never has been, in the business of developing or selling  
 2 any products in the medical field, let alone specific, FDA-regulated surgical tools like  
 3 the kind PAM was offering to license to Valve.

4        18. None of Mr. Falcucci's messages ever provided any analysis of which  
 5 Rothschild patents Valve was supposedly practicing or which of Valve's products  
 6 were supposedly practicing those patents—only that Valve should pay PAM and  
 7 Rothschild more money.

8        19. Mr. Falcucci's demands included that Valve take a license to at least two  
 9 patents assigned to Display Technologies, U.S. Patent Nos. 8,671,195 and 9,300,723.  
 10 Valve, however, already has a license to both of those patents under the 2016 Global  
 11 Settlement and License Agreement.

12        20. Shortly after Mr. Falcucci's string of demand messages, Display  
 13 Technologies sued Valve in this Court for patent infringement. *See Display*  
 14 *Technologies LLC v. Valve Corporation*, 2-22-cv-01365 (W.D. Wash. Sept. 27,  
 15 2022).

16        21. Defendants Samuel Meyler ("Meyler") and Meyler Legal, PLLC  
 17 (collectively, "Meyler Defendants") represented Display Technologies in its 2022  
 18 lawsuit against Valve.

19        22. Display Technologies asserted infringement of U.S. Patent  
 20 No. 9,300,723, which is a continuation of U.S. Patent No. 8,671,195, the patent  
 21 originally asserted against Valve that led to the 2016 Global Settlement and License  
 22 Agreement. Accordingly, U.S. Patent No. 9,300,723 is covered under the parties'  
 23 2016 Global Settlement and License Agreement. Display Technologies' suit against  
 24 Valve in 2022 was thus a breach of that agreement.

25        23. Valve informed Display Technologies that Valve had a license to U.S.  
 26 Patent No. 9,300,723 under the 2016 Global Settlement and License Agreement. In  
 27 doing so, Valve sent the 2016 Global Settlement and License Agreement to the  
 28 Meyler Defendants twice, once in October and once in December 2022. In its

1 December letter, Valve explained the history of the 2015 litigation between Display  
 2 Technologies and Valve and informed the Meyler Defendants that “[t]he Global  
 3 Agreement granted Valve a license to all of Rothschild’s patents that could  
 4 conceivably be construed to cover any portion of Valve’s business.” Ex. 6 at 1.

5       24. Display Technologies voluntarily dismissed its lawsuit on October 13,  
 6 2022, but did so without prejudice. *See Display Technologies LLC v. Valve*  
 7 *Corporation*, Case No. 2:22-cv-01365, Dkt. 6 (W.D. Wash. Sept. 27, 2022) (Ex. 7).

8       25. Since dismissing that case without prejudice, Mr. Falcucci has not  
 9 withdrawn or retracted his demands, made on behalf of Rothschild and PAM, that  
 10 Valve take a license to patents owned by Display Technologies that are already  
 11 covered under the 2016 Global Settlement and License Agreement (including U.S.  
 12 Patent No. 9,300,723).

13       26. Defendants’ improper threats to sue Valve for patent infringement on  
 14 patents Valve already had a license to did not end there.

15       27. On June 21, 2023, the Meyler Defendants sent a letter to Valve on behalf  
 16 of a *different* Rothschild-controlled entity—RBDS—threatening to file another  
 17 lawsuit against Valve, this time alleging infringement of the ’221 Patent if Valve did  
 18 not negotiate a resolution of RBDS’s claims. Ex. 8 (Meyler letter to Valve).

19       28. For the second time in less than a year, Rothschild and PAM, this time  
 20 through RBDS, are threatening to sue Valve for infringement of a patent that Valve is  
 21 already a licensee to under the 2016 Global Settlement and License Agreement.

22       29. The ’221 Patent is expressly listed as one of the licensed patents in  
 23 Exhibit C of the 2016 Global Licensing and Settlement Agreement. Ex. 1 at 19. Less  
 24 than five minutes of due diligence—namely, reviewing the licensing agreement—  
 25 would have confirmed that Valve is licensed to the ’221 Patent.

26       30. Because Valve had already sent the agreement to the Meyler Defendants,  
 27 on information and belief, they were aware of its terms when Mr. Meyler sent the  
 28 June 21, 2023, letter to Valve.

1       31. Prior to filing the 2022 lawsuit alleging infringement of United States  
 2 Patent No. 9,300,723 on behalf of Rothschild-controlled Display Technologies,  
 3 Meyler was required by Washington Rule of Professional Conduct 3.1 and Federal  
 4 Rule of Civil Procedure 11 to investigate the basis for Display Technologies' claims.

5       32. At a minimum, Meyler's investigation should have included a review of  
 6 the 2016 Global Settlement and License Agreement between Display Technologies  
 7 and Valve, which would have informed him of the numerous patents to which Valve  
 8 was already licensed.

9       33. The most-recent demand letter, combined with the fact that Display  
 10 Technologies already sued Valve for infringement of a patent it has a license to,  
 11 demonstrates that it is highly likely one or more Defendants will sue Valve for  
 12 infringement of the '221 Patent.

13       34. In the meantime, the cloud of Defendants' improper infringement  
 14 allegations hangs over Valve, its products, and its services. Defendants' actions have  
 15 created an actual, justiciable, substantial, and immediate controversy between Valve  
 16 and Defendants as to whether the '221 Patent claims are valid, and whether those  
 17 claims are enforceable against Valve.

18       35. A judicial declaration is necessary to determine the respective rights of  
 19 the parties regarding the '221 Patent, and Valve respectfully seeks a judicial  
 20 declaration that the '221 Patent is invalid and unenforceable against Valve.

21       36. On information and belief, Rothschild, RBDS, Display Technologies,  
 22 and PAM are highly assertive entities whose entire business model is to make bad  
 23 faith assertions of patent infringement in the hopes of obtaining a quick settlement  
 24 payment. The Meyler Defendants knowingly and willingly assisted in making such  
 25 claims against Valve and, presumably, other companies as well. The assertions raised  
 26 against Valve by the collective Defendants are in violation of RCW 19.350 because  
 27 they are objectively and subjectively baseless allegations that Valve is infringing a  
 28 patent to which Valve already has a license. Defendants' bad faith assertions of patent

1 infringement resulted in Valve spending unnecessary money on legal fees to defend  
 2 itself against these baseless claims.

3 **II. THE PARTIES**

4 37. Valve Corporation is a software and videogame developer with its  
 5 primary place of business at 10400 NE 4th St. Fl. 14, Bellevue, WA 98004.

6 38. On information and belief, Leigh Rothschild resides at 1801 NE 123rd  
 7 St. North, Miami, FL 33181.

8 39. RBDS is a corporation organized and existing under the laws of the state  
 9 of Texas with a registered physical address of 1 East Broward Boulevard, Suite 700,  
 10 Ft. Lauderdale, FL 33301.

11 40. RBDS owns the rights to the '221 Patent, which it has asserted at least  
 12 120 times against companies across a wide range of industries. No party that  
 13 contested infringement has ever been found by a federal court to infringe the '221  
 14 Patent.<sup>1</sup> In each of its cases, RBDS dismissed the lawsuit prior to claim construction.

15 41. Display Technologies is a corporation organized and existing under the  
 16 laws of the state of Texas with a registered physical address of 1 East Broward  
 17 Boulevard, Suite 700, Ft. Lauderdale, FL 33301.

18 42. PAM is a corporation organized and existing under the laws of the state  
 19 of Florida, with a registered physical address of 1 East Broward Boulevard, Suite  
 20 700, Fort Lauderdale, FL, 33301.

21 43. Rothschild is the registered agent of PAM.

22 44. PAM owns 100% of RBDS and Display Technologies. Dkt. 21.

23 45. Upon information and belief, Display Technologies, RBDS, and PAM  
 24 are controlled by Rothschild and are used by him for the sole purpose of asserting  
 25 patent infringement claims. PAM owns 100% of each of RBDS and Display  
 26 Technologies. Dkt. 21.

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27 <sup>1</sup> In one instance a party did not answer RBDS's complaint, and thus was found to  
 28 infringe the '221 Patent by default.

1       46. Samuel Meyler is an attorney licensed in Washington State. Meyler is  
 2 the sole practitioner of Meyler Legal, PLLC, having a registered place of business at  
 3 1700 Westlake Ave N Ste 200, Seattle, WA 98109-6212.

4       47. Rothschild signed and submitted the patent assignment agreement  
 5 transferring rights to the '221 Patent from one of his controlled entities, Ariel  
 6 Inventions, to another of his controlled entities, RBDS. Ex. 9 (Patent Assignment  
 7 Cover Sheet). Rothschild signed on behalf of both parties to the assignment.

8       48. Upon information and belief, Defendants conspired to assert bad faith  
 9 patent litigation claims for financial gain.

10      49. Despite being personally informed that Valve previously executed the  
 11 2016 Global Settlement and License Agreement with Rothschild, and being sent a  
 12 copy of that agreement, Meyler, on his firm's letterhead, authored and sent the  
 13 June 2023 demand letter to Valve that threatens a lawsuit based on the '221 Patent, a  
 14 patent explicitly listed in the 2016 Global Settlement and License Agreement.

15 **III. JURISDICTION AND VENUE**

16      50. This action arises under the Declaratory Judgment Act, 28 U.S.C.  
 17 §§ 2201-2202, under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.* This  
 18 action also arises under the Patent Troll Prevention Act enacted by the state of  
 19 Washington at RCW 19.350 prohibiting bad faith assertion of patent infringement,  
 20 and RCW 19.86.020, the Washington State Consumer Protection Act.

21      51. This Court has subject matter jurisdiction over the claims alleged in this  
 22 action at least under 28 U.S.C. §§ 1331, 1338, 2201, and 2202, because this Court has  
 23 exclusive jurisdiction over declaratory judgment claims arising under the Patent Laws  
 24 pursuant to these statutes.

25      52. This Court has supplemental jurisdiction over Valve's state claims under  
 26 28 U.S.C. § 1337, as Valve's state law claims arise out of the same case or  
 27 controversy as its claims for which this Court has original jurisdiction.

1       53. This Court has personal jurisdiction over Defendants because they acted  
 2 in concert to conduct substantial business in this District, including regularly doing or  
 3 soliciting business, engaging in other persistent courses of conduct, suing other  
 4 companies in this District on the '221 Patent, and deriving substantial revenue from  
 5 individuals and entities in Washington. Rothschild-controlled entities routinely avail  
 6 themselves of the Washington Federal District Courts as a forum for asserting  
 7 infringement against Washington companies. *See, e.g., Rothschild Broadcast Distrib.*  
 8 *Sys., LLC v. CreativeLive Inc*, No. 2-22-cv-00771 (W.D. Wash. June 2, 2022);  
 9 *Display Technologies LLC v. Valve Corp.*, No. 2-22-cv-01365 (W.D. Wash. Sept. 27,  
 10 2022).

11       54. The 2022 demand letters from Falcucci were made on behalf of both  
 12 Rothschild and PAM, requested that Valve take a license to patents assigned to  
 13 RBDS and Display Technologies, were sent to Valve's headquarters in Washington,  
 14 and sought additional royalty payments from Valve.

15       55. Shortly after Mr. Falcucci sent these demand letters on behalf of  
 16 Rothschild and PAM, Display Technologies, represented by the Meyler Defendants,  
 17 filed suit against Valve at Rothschild's directive.

18       56. Accordingly, each Defendant purposefully and repeatedly directed its  
 19 activities at residents of Washington. On information and belief, Rothschild's  
 20 companies have sent letters to numerous other entities, including numerous other  
 21 companies based in Washington, asserting infringement of the '221 Patent and  
 22 demanding payment of money. Thus, Defendants have sufficient minimum contacts  
 23 with the State of Washington to satisfy the Washington long-arm statute (RCW  
 24 4.28.185) and Constitutional due process requirements because Defendants regularly  
 25 conduct business activities in Washington.

26       57. This Court further has personal jurisdiction over the Meyler Defendants  
 27 because both are domiciled in this jurisdiction.

28

1       58.   Venue in this District is proper under 28 U.S.C. §§ 1331(b), (c), and (d)  
 2 with respect to Valve's particular claims against all Defendants.

3       **IV. THE '221 PATENT**

4       59.   The '221 Patent issued on October 7, 2014, to Rothschild and is titled  
 5 "System and method for storing broadcast content in a cloud-based computing  
 6 environment." The '221 Patent is currently assigned to RBDS.

7       60.   The '221 Patent is listed in Exhibit C to the 2016 Global Settlement and  
 8 License Agreement as one of the Licensed Patents. Ex. 1 at 19 (Patent No. 12).

9       **V. COUNT I: DECLARATORY JUDGEMENT THAT THE '221 PATENT  
 10 IS INVALID**

11       55.   Valve incorporates by reference the preceding paragraphs of this  
 12 Complaint.

13       56.   In view of the facts and allegations set forth above, there is an actual,  
 14 justiciable, substantial, and immediate controversy between Valve and RBDS  
 15 regarding the validity of the '221 Patent. Absent a declaration of invalidity, RBDS  
 16 will continue to assert the '221 Patent wrongfully, thereby injuring Valve.

17       57.   As Valve explains throughout this Complaint and in Count III for Breach  
 18 of Contract, incorporated by reference herein, Defendants behave as if compliance  
 19 with the 2016 Global Settlement and License Agreement was optional. To avoid any  
 20 doubt, the existence of that agreement and its covenant not to sue does not negate the  
 21 case or controversy between Valve and Defendants because of Defendants' pattern of  
 22 past and ongoing violations of that agreement. This is that unique case where a  
 23 covenant not to sue between the parties fails to provide Valve with the protection it  
 24 paid for because, unfortunately, the assurances given to Valve in that agreement are  
 25 worthless. Judicial intervention is therefore necessary to give Valve the rights it paid  
 26 for, but that Defendants have denied it.

27       58.   The '221 patent is invalid for failure to meet one or more of the  
 28 conditions of patentability under the patent laws of the United States, 35 U.S.C. § 1 *et*

1       seq., including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and/or 112, and Valve  
 2       is entitled to a declaration to that effect. By way of non-limiting example, upon  
 3       information and belief, the claims of the '221 Patent are invalid as obvious under  
 4       U.S. Patent Application Publication No. 2008/0155059, titled "Methods and  
 5       apparatus for supporting content distribution," alone or alternatively in view of U.S.  
 6       Patent No. 7,684,673 titled "Managing a digital video recorder via a network."

7       **VI. COUNT II: DECLARATORY JUDGEMENT THAT THE '221 PATENT  
 8       IS UNENFORCEABLE AGAINST VALVE**

9       59.       Valve incorporates by reference the preceding paragraphs of this  
 10      Complaint.

11       60.       Valve received a "perpetual, irrevocable, royalty-free, fully paid-up,  
 12      worldwide license" to the '221 Patent by signing the 2016 Global Settlement and  
 13      License Agreement.

14       61.       That Agreement applies with equal force to RBDS as it did to Ariel  
 15      Inventions LLC, the Rothschild-controlled entity that was assigned the '221 Patent  
 16      when the 2016 Global Settlement and License Agreement was signed. Indeed,  
 17      Section 7.2 of the agreement states that "Licensor may not assign, or exclusively  
 18      license, any of the Licensed Patents without such assignee or licensee agreeing to be  
 19      bound by the obligations of the Licensor hereunder as if it were a party hereto, and  
 20      any assignment or exclusive license made in violation of this provision shall be void."  
 21      Ex. 1 at 7.

22       62.       As discussed above, because Defendants behave as if compliance with  
 23      the 2016 Global Settlement and License Agreement is optional, judicial intervention  
 24      is necessary to give Valve the rights it paid for, but that Defendants have denied it.

25       63.       Valve thus is entitled to judgment declaring that the '221 Patent is  
 26      unenforceable against Valve, and that no party can file suit against it for infringement  
 27      of the '221 Patent.

28

1       64. Valve has no adequate remedy at law for its declaratory judgment  
 2 claims.

3 **VII. COUNT III: BREACH OF CONTRACT**

4       65. Valve incorporates by reference the preceding paragraphs of this  
 5 Complaint.

6       66. Section 3.1 of the 2016 Global Settlement and License Agreement is  
 7 titled “Licensor License to Licensee” and states “No royalties or additional payments  
 8 of any kind shall be required in order to maintain this Agreement in force.” Ex. 1.

9       67. Section 3.2 of the 2016 Global Settlement and License Agreement is  
 10 titled “Covenant Not to Sue Licensee” and states “Licensor covenants not to sue  
 11 Licensee or its Affiliates for actual or alleged infringement of the Licensed Patents.”  
 12 Ex. 1.

13       68. Valve fully performed its obligations under the 2016 Global Settlement  
 14 and License Agreement.

15       69. As a condition of being assigned the ’221 Patent, RBDS is bound by the  
 16 2016 Global Settlement and License Agreement as if it was an original signatory to  
 17 the agreement.

18       70. As the original signatory to the 2016 Global Settlement and License  
 19 Agreement, Display Technologies is bound by the agreement.

20       71. The “potential resolution” and “resolution” discussed in the 2023  
 21 demand letter sent by Meyler on behalf of Rothschild and RBDS is a monetary  
 22 payment for additional rights to patents to which Valve is already licensed, including  
 23 the ’221 Patent.

24       72. RBDS breached at least Section 3.1 and anticipatorily breached  
 25 Section 3.2 (and therefore breached the 2016 Global Settlement and License  
 26 Agreement) when it asserted the ’221 Patent against Valve in its most recent demand  
 27 letter.

1       73. RBDS repudiated its covenant not to sue Valve by expressly threatening  
 2 to sue Valve if it did not pay additional money to RBDS. Ex. 8 at 1.

3       74. In other words, RBDS made a positive statement indicating distinctly  
 4 and unequivocally that it would not substantially perform its obligations under the  
 5 covenant not to sue without receiving additional monetary payment that goes beyond  
 6 Valve's payment obligations under the 2016 Global Settlement and License  
 7 Agreement.

8       75. As noted above, RBDS also breached Section 3.1 of the 2016 Global  
 9 Settlement and License Agreement by demanding additional payment for rights to  
 10 patents licensed to Valve in the 2016 Global Settlement and License Agreement.

11       76. Further, Display Technologies breached the covenant not to sue when it  
 12 asserted U.S. Patent No. 9,300,723 in its 2022 lawsuit against Valve and continues to  
 13 be in breach by failing to withdraw the 2022 demands from Mr. Falcucci.

14       77. As explained above, Rothschild owns, controls, and directs the actions of  
 15 RBDS and Display Technologies. As a signatory to the 2016 Global Settlement and  
 16 License Agreement, Rothschild is also in breach and/or has anticipatorily breached  
 17 the 2016 Global Settlement and License Agreement.

18       **VIII. COUNT IV: VIOLATION OF WASHINGTON UNFAIR BUSINESS  
 19 PRACTICES AND BAD FAITH ASSERTIONS OF PATENT  
 20 INFRINGEMENT, RCW 19.86 AND 19.350**

21       78. Valve incorporates by reference the preceding paragraphs of this  
 Complaint.

22       79. Defendants made a pre-suit assertion of patent infringement by sending  
 23 the March 2022 demands to Valve, which falsely and misleadingly requested that  
 24 Valve pay additional fees to obtain a license to U.S. Patents 8,671,195 and 9,300,723,  
 25 patents owned by Display Technologies to which Valve already had a license.

26       80. Defendants have not withdrawn Mr. Falcucci's demands.

27       81. Defendants made another pre-suit assertion of patent infringement by  
 28 sending the June 2023 demand letter to Valve, which claimed that Valve has

1 infringed the '221 Patent and encouraged Valve to obtain a license to the '221 Patent  
 2 to avoid litigation. This threat, like the March 2022 threat, was made outside the  
 3 context of active litigation between Defendants and Valve.

4       82. Defendants' pre-suit threats to sue Valve for infringing licensed patents  
 5 are bad faith assertions of patent infringement and in violation of RCW 19.350 (the  
 6 Patent Troll Prevention Act).

7       83. Defendants sent the June 2023 demand letter when no judicial  
 8 proceeding or litigation was pending between Defendants and Valve.

9       84. The June 2023 letter was emailed directly to a member of Valve's legal  
 10 team.

11       85. The June 2023 letter did not attach any complaints or other proposed  
 12 judicial pleadings that Meyler intended to file. Instead, the letter explained that Valve  
 13 could take a license as a way of avoiding litigation.

14       86. To avoid any doubt, this demand letter was a private communication  
 15 between two private parties outside of the context of any judicial or quasi-judicial  
 16 proceeding.

17       87. Defendants' assertion that Valve infringed licensed patents, such as the  
 18 '221 Patent, was made in bad faith.

19       88. Defendants' bad faith assertion of infringement imposed a significant  
 20 burden on Valve because Valve must now, yet again, expend resources to defend  
 21 itself against meritless infringement allegations.

22       89. The following non-exclusive factors enumerated under RCW 19.350  
 23 weigh in favor of a judicial finding that Defendants' threat of infringement against  
 24 Valve was made in bad faith:

25           a. 19.350.020(2)(d): "The person threatens legal action that cannot  
 26 legally be taken." As explained above, Valve has a worldwide, perpetual license to  
 27 the '221 Patent. While Defendants have routinely disregarded their legal obligations  
 28 under the parties' agreement—thus requiring the relief requested through this

lawsuit—the fact remains that Defendants legally cannot sue Valve for infringement of the '221 Patent or any other patent covered by the 2016 license, yet have threatened, and even taken, legal action against Valve contrary to the terms of the agreement.

b. 19.350.020(2)(f): "The person, or a subsidiary or an affiliate of the person, has previously filed or threatened to file one or more lawsuits based on the same or substantially equivalent assertion of patent infringement, and a court found the person's assertion to be without merit or found the assertion contains false, misleading, or deceptive information."

- i. Upon information and belief, RBDS or another Rothschild-controlled entity has asserted the '221 Patent against at least 127 different companies spanning hundreds of technological fields, industries, services, and products. The only reason that a court has not previously found the assertions of the '221 Patent to be meritless is because these Rothschild-controlled entities exact a quick settlement fee far below the costs to litigate and/or voluntarily dismiss their lawsuits when presented with arguments over the non-infringement and/or invalidity of the asserted patents.

ii. As noted above and expanded upon below, however, courts have found that patent claims made by other Rothschild-controlled entities are without merit. Indeed, on information and belief, Defendants, or a subsidiary or an affiliate of one or more Defendants, made substantially equivalent assertions of patent infringement that a court found to be so lacking in merit that it awarded fees to the opposing party.

iii. For example, in the case referenced in attached Ex. 4, *Rothschild Connected Devices Innovations, LLC v.*

*Guardian Prot. Servs., Inc.*, No. 2:15-cv-01431 (E.D. Tex.), the Rothschild plaintiff accused a company of infringing one of the many patents naming Leigh Rothschild as its inventor. Rothschild ultimately voluntarily moved to dismiss the action, which the district court granted while concurrently denying the opposing party's motion for attorney fees. *Rothschild Connected Devices Innovations, LLC v. Guardian Prot. Servs., Inc.*, 858 F.3d 1383, 1386 (Fed. Cir. 2017).

- iv. Upon remand from the Federal Circuit, the district court ordered the Rothschild plaintiff to pay “the full amount of fees [the opposing party] seeks.” *Rothschild Connected Devices Innovations, LLC v. ADS Sec., L.P.*, No. 2:15-cv-01431, 2017 WL 5178998, at \*2 (E.D. Tex. Nov. 8, 2017).
- v. In its opinion, the Federal Circuit held (*Rothschild*, 858 F.3d at 1390 (emphasis added)):

[T]he undisputed evidence regarding Rothschild’s vexatious litigation warrants an affirmative exceptional case finding here. See *Newegg*, 793 F.3d at 1350 (“[A] pattern of litigation abuses characterized by the repeated filing of patent infringement actions for the sole purpose of forcing settlements, with no intention of testing the merits of one’s claims, is relevant to a district court’s exceptional case determination under § 285.”); see also *Eon-Net*, 653 F.3d at 1327 (noting that settlement offers that were “less than ten percent of the cost that [a defendant] expended to defend suit—effectively ensured that [a plaintiff’s] baseless infringement allegations remain unexposed”).

vi. Such substantially equivalent assertions by another Rothschild entity that led to an attorney fee award—and therefore, on information and belief, a finding that the underlying patent infringement assertion was without

merit—are relevant to whether Defendants acted in bad faith here. Indeed, Defendants engage in exactly the same type of assertions that the Federal Circuit admonished in the above-described *Rothschild* decision.

5 c. 19.350.020(2)(g): “Any other factor the court determines to be  
6 relevant.” As explained above, Valve sent a copy of the 2016 Global Settlement and  
7 License Agreement to the Meyler Defendants. Those defendants, a law firm and  
8 attorney bound by the Washington State Rules of Professional Conduct, should have  
9 known about the agreement and its contents based on the bare-minimum due  
10 diligence required before filing suit. The earlier-filed Meyler case, brought on behalf  
11 of Display Technologies, was voluntarily dismissed without prejudice because of that  
12 Rothschild-Valve contract. Five months later, however, Defendants are trying the  
13 same tactic again, asserting infringement of patents Valve has already licensed.

14       90. Defendants' violations of RCW 19.350 are an unfair and deceptive  
15 business practice in the conduct of trade or commerce, as declared unlawful and  
16 actionable per RCW 19.86.020. *See* RCW 19.86.093; *see also* RCW 19.350.030 (A  
17 violation of the Patent Troll Prevention Act "is an unfair or deceptive act in trade or  
18 commerce and an unfair method of competition for purposes of applying the  
19 consumer protection act, chapter 19.86 RCW.").

20      **IX. COUNT V: CONSPIRACY TO COMMIT VIOLATIONS OF**  
21      **WASHINGTON UNFAIR BUSINESS PRACTICES AND BAD**  
          **FAITH ASSERTIONS OF PATENT INFRINGEMENT,**  
          **RCW 19.86 AND 19.350**

23        91.    Valve incorporates by reference the preceding paragraphs of this  
24        Complaint.

25           92.   Rothschild, Display Technologies, RBDS, PAM, and the Meyler  
26   Defendants all entered into an agreement with the intent of accomplishing the  
27   unlawful purpose of violating the Patent Troll Prevention Act. To avoid any doubt,  
28   Valve alleges that at least five persons/entities conspired to achieve this unlawful

1 purpose: (1) Rothschild, (2) Display Technologies, (3) RBDS, (4) PAM, and (5) the  
 2 Meyler Defendants.

3       93. The Meyler Defendants have represented at least four different  
 4 Rothschild-controlled entities for the purpose of making bad faith assertions of patent  
 5 infringement against Valve.

6       94. Upon information and belief, the Myler Defendants have sent other  
 7 demand letters to businesses in Washington.

8       95. Defendants knew or should have known that the '221 Patent was  
 9 unenforceable against Valve, and that any attempt to enforce the '221 Patent against  
 10 Valve would be in bad faith. Despite this knowledge, Defendants nevertheless accuse  
 11 Valve of infringing the '221 Patent.

12      **X. PRAYER FOR RELIEF**

13 WHEREFORE, Valve respectfully requests the following relief:

- 14       a. Damages, treble damages, and attorney fees pursuant to  
 15           RCW 19.86.090;
- 16       b. A declaration that the '221 patent is invalid and unenforceable against  
 17           Valve;
- 18       c. Preliminary and permanent injunctive relief against Defendants, and  
 19           ordering Defendants and each of their officers, directors, agents, counsel,  
 20           servants, employees, and all persons in active concert or participation  
 21           with them to withdraw their claims and be restrained from alleging,  
 22           representing, or otherwise stating that any Valve product or service  
 23           infringes any patent covered by the 2016 Global Settlement and License  
 24           Agreement, and further enjoining Defendants from instituting any action  
 25           or proceeding against Valve alleging infringement of any claims of any  
 26           of the patents covered in the 2016 Global Settlement and License  
 27           Agreement;

- d. Declaring Valve as the prevailing party and this case as exceptional, and awarding Valve its reasonable attorney fees, pursuant to 35 U.S.C. § 285;
- e. Awarding Valve all damages caused by Defendants' unlawful acts, including punitive damages and pre- and post-judgment interest, as provided by law;
- f. That Defendants be ordered to pay all fees, expenses, and costs associated with this action; and
- g. Awarding such other and further relief as this Court deems just and proper.

## **XI. JURY TRIAL REQUEST**

Valve, pursuant to the Seventh Amendment of the United States Constitution, requests trial by jury on all issues properly heard by a jury.

DATED: October 5, 2023      Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON  
LLP

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